In the Claims

Claims 1-37 and 49-53 have been canceled without prejudice.

Claims 54-75 are added.

Claims 38-48 and 54-75 remain in the application and are listed below as follows:

1.-37. (Canceled).

38. (Previously Presented) One or more computer-readable media containing computer-executable instructions that, when executed on a computer, perform the following steps:

requesting a server to transmit content file data over a network at a first transmission rate;

while receiving a portion of the content file data at the first transmission rate, requesting the server to transmit a specific portion of the content file data over the network at a second transmission rate;

receiving the specific portion of the content file data from the server at an actual transmission rate which is less than or equal to the second transmission rate;

determining if the network can viably support transmission of the content file data at the actual transmission rate during receipt of the specific portion of the content file data;

if the network can viably support transmission of the content data at the actual transmission rate, requesting the server to transmit subsequent content file data at a rate that is not greater than the actual transmission rate;

if the network cannot viably support transmission of the content data at the actual transmission rate, automatically receiving subsequent content file data at the first transmission rate; and

wherein the subsequent content file data is content file data that is transmitted after the specific portion of content file data has concluded transmission.

39. (Original) The one or more computer-readable media as recited in claim 38, further comprising storing the actual rate in a history file associated with the server that contains one or more previous transmission rates at which content file data was adequately received from the server.

40. (Original) The one or more computer-readable media as recited in claim 38, further comprising determining the first transmission rate from a history list associated with the server that contains one or more previous transmission rates at which content file data was adequately received from the server.

41. (Original) The one or more computer-readable media as recited in claim 40, wherein the determining the first transmission rate from a history list further comprises determining a median rate included in the history list as the first transmission rate.

42. (Original) The one or more computer-readable media as recited in claim 38, further comprising calculating available network bandwidth to determine the first transmission rate.

43. (Original) The one or more computer-readable media as recited in claim 38, further comprising detecting when the transmission of the content file data at the actual transmission rate begins.

44. (Previously Presented) The one or more computer-readable media as recited in claim 38, wherein the specific portion of the content file data is specified as a number of seconds of transmission of content file data.

45. (Previously Presented) The one or more computer-readable media as recited in claim 38, wherein the specific portion of the content file data is specified as a number of bytes of content file data.

46. (Previously Presented) The one or more computer-readable media as recited in claim 38, wherein the specific portion of the content file data is specified as a number of data packets of content file data.

47. (Original) The one or more computer-readable media as recited in claim 38, wherein the actual transmission rate is a higher rate than the first transmission rate.

48. (Original) The one or more computer-readable media as recited in claim 38, wherein the actual transmission rate is a lower rate than the first transmission rate.

49.-53. (Canceled).

54. (New) A computer-implemented method comprising:

requesting a server to transmit content file data over a network at a first transmission rate;

while receiving a portion of the content file data at the first transmission rate, requesting the server to transmit a specific portion of the content file data over the network at a second transmission rate;

receiving the specific portion of the content file data from the server at an actual transmission rate which is less than or equal to the second transmission rate;

determining if the network can viably support transmission of the content file data at the actual transmission rate during receipt of the specific portion of the content file data;

if the network can viably support transmission of the content data at the actual transmission rate, requesting the server to transmit subsequent content file data at a rate that is not greater than the actual transmission rate;

if the network cannot viably support transmission of the content data at the actual transmission rate, automatically receiving subsequent content file data at the first transmission rate; and

wherein the subsequent content file data is content file data that is transmitted after the specific portion of content file data has concluded transmission.

55. (New) The method as recited in claim 54, further comprising storing the actual rate in a history file associated with the server that contains one or more

previous transmission rates at which content file data was adequately received from the server.

56. (New) The method as recited in claim 54, further comprising determining the first transmission rate from a history list associated with the server that contains one or more previous transmission rates at which content file data was adequately received from the server.

57. (New) The method as recited in claim 56, wherein the determining the first transmission rate from a history list further comprises determining a median rate included in the history list as the first transmission rate.

58. (New) The method as recited in claim 54, further comprising calculating available network bandwidth to determine the first transmission rate.

59. (New) The method as recited in claim 54, further comprising detecting when the transmission of the content file data at the actual transmission rate begins.

60. (New) The method as recited in claim 54, wherein the specific portion of the content file data is specified as a number of seconds of transmission of content file data.

61. (New) The method as recited in claim 54, wherein the specific portion of the content file data is specified as a number of bytes of content file data.

62. (New) The method as recited in claim 54, wherein the specific portion of the content file data is specified as a number of data packets of content file data.

63. (New) The method as recited in claim 54, wherein the actual transmission rate is a higher rate than the first transmission rate.

64. (New) The method as recited in claim 54, wherein the actual transmission rate is a lower rate than the first transmission rate.

65. (New) A system comprising:

a processor;

one or more computer-readable media;

computer-executable instructions on the one or more computer-readable media which, when executed by the processor, implements a method comprising:

requesting a server to transmit content file data over a network at a first transmission rate;

while receiving a portion of the content file data at the first transmission rate, requesting the server to transmit a specific portion of the content file data over the network at a second transmission rate;

receiving the specific portion of the content file data from the server at an actual transmission rate which is less than or equal to the second transmission rate;

determining if the network can viably support transmission of the content file data at the actual transmission rate during receipt of the specific portion of the content file data;

if the network can viably support transmission of the content data at the actual transmission rate, requesting the server to transmit subsequent content file data at a rate that is not greater than the actual transmission rate;

if the network cannot viably support transmission of the content data at the actual transmission rate, automatically receiving subsequent content file data at the first transmission rate; and

wherein the subsequent content file data is content file data that is transmitted after the specific portion of content file data has concluded transmission.

66. (New) The system as recited in claim 54, further comprising storing the actual rate in a history file associated with the server that contains one or more previous transmission rates at which content file data was adequately received from the server.

67. (New) The system as recited in claim 54, further comprising determining the first transmission rate from a history list associated with the server that contains one or more previous transmission rates at which content file data was adequately received from the server.

68. (New) The system as recited in claim 56, wherein the determining the first transmission rate from a history list further comprises determining a median rate included in the history list as the first transmission rate.

69. (New) The system as recited in claim 54, further comprising calculating available network bandwidth to determine the first transmission rate.

70. (New) The system as recited in claim 54, further comprising detecting when the transmission of the content file data at the actual transmission rate begins.

71. (New) The system as recited in claim 54, wherein the specific portion of the content file data is specified as a number of seconds of transmission of content file data.

72. (New) The system as recited in claim 54, wherein the specific portion of the content file data is specified as a number of bytes of content file data.

73. (New) The system as recited in claim 54, wherein the specific portion of the content file data is specified as a number of data packets of content file data.

74. (New) The system as recited in claim 54, wherein the actual transmission rate is a higher rate than the first transmission rate.

75. (New) The system as recited in claim 54, wherein the actual transmission rate is a lower rate than the first transmission rate.